

COMMISSIONERS APPROVAL

GRANDSTAFF *Cg*
ROKOSCH *Absent*
THOMPSON *AT*
CHILCOTT *Cg*
DRISCOLL *LD*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner Kathleen Driscoll

DateMarch 27, 2008

Minute: Glenda Wiles

The Board met for a Public Hearing in regard to a Request for Commission Action on the Willoughby Estates Major Subdivision. Present were Consultant Nathan Lucke from Territorial Landworks, Planner John Lavey and Civil Counsel Karen Mahar.

The meeting was called or order by Commissioner Grandstaff. No conflicts of interest were noted. Commissioner Grandstaff called for the staff report as follows:

**WILLOUGHBY ESTATES
EIGHTEEN-LOT MAJOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: John Lavey

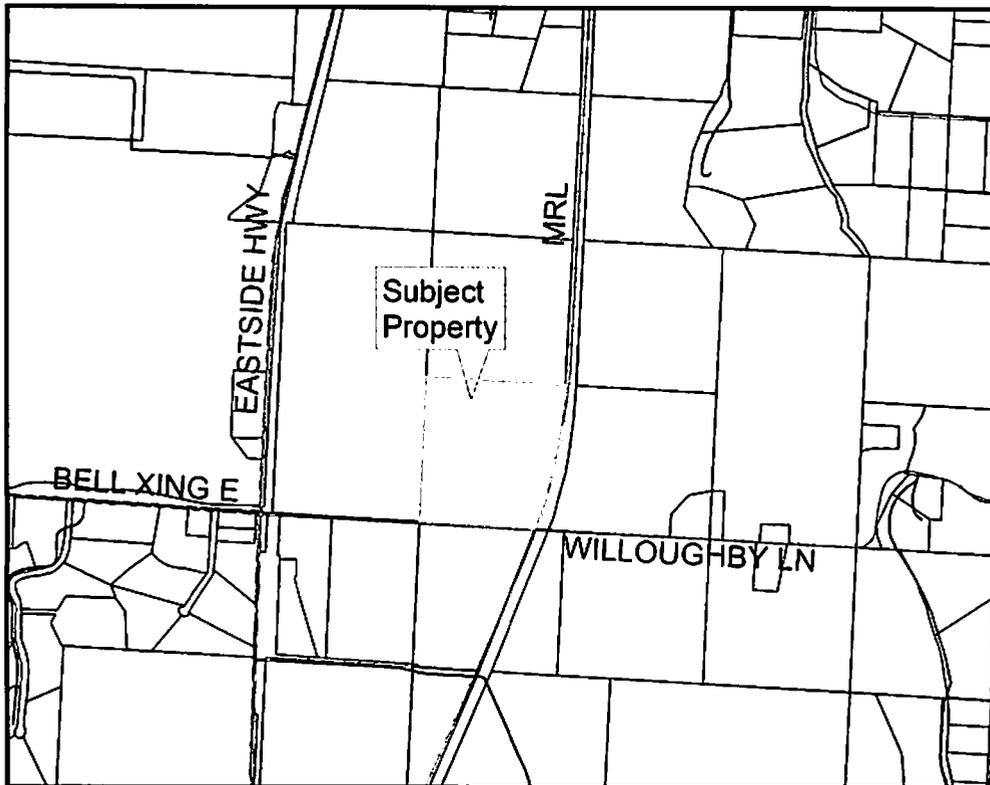
**REVIEWED/
APPROVED BY:** Renee Lemon

PUBLIC MEETINGS: Planning Board Public Meeting 3:00 p.m. March 5, 2008
BCC Public Meeting: 9:00 a.m. March 27, 2008
Deadline for BCC action (60 working days): April 21, 2008

SUBDIVIDER: Willoughby Development Corporation
3431 Eastside Highway
Stevensville, MT 59870

REPRESENTATIVE: Andy Short
Territorial-Landworks, Inc.
PO Box 3851
Missoula, MT 59806

LOCATION OF REQUEST: The property is located south of Stevensville off Willoughby Lane. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION OF PROPERTY: SE ¼ SW ¼ of Section 15, T8N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was determined sufficient on January 25, 2008. Agencies were notified of the subdivision on October 2, 2007 and January 25, 2008. Comments received from agencies are Exhibits A-1 through A-15 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated January 25, 2008. Comments received from adjacent property owners are Exhibits B-1 through B-7.

**DEVELOPMENT
PATTERN:**

Subject property: Agriculture
North: Agricultural
South: Rural Residential
East: Agricultural
West: Agricultural

INTRODUCTION

The subject property is currently irrigated and produces alfalfa. Irrigation ditches border both the western and eastern property boundaries. The applicant is statutorily required to provide 1.89 acres of parkland, and is proposing to do so through a payment of cash-in-lieu of land dedication. Roughly 95% of the soils on the property are described as "Prime farmland if irrigated" by the Natural Resources Conservation Service. There are water rights associated with the subdivision.

Staff recommends conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
MARCH 27, 2008**

**WILLOUGHBY ESTATES
EIGHTEEN-LOT MAJOR SUBDIVISION**

PLANNING STAFF RECOMMENDED MOTION

That the Willoughby Estates Major Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

PLANNING STAFF RECOMMENDED CONDITIONS

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easement. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. The Union Ditch Association and/or the Webfoot Ditch must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Notification of Water Rights. Lots within this subdivision do not currently have the right to take water from the Webfoot Irrigation Ditch on the western portion of the property. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights. *(Section 3-2-8(b)(v)(B), RCSR, Effects of Agricultural Water User Facilities)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Willoughby Lane frontage of the subdivision, excepting the approved approach to the internal subdivision road. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Road Maintenance Agreement. The internal subdivision road, Delaford Loop, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

Notification of Proximity to Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Lake Como Reservoir Dam and/or Painted Rocks Reservoir Dam. A portion of this subdivision may be located within the dam inundation areas for the Painted Rocks Dam and the Lake Como Dam. The Painted Rocks Reservoir Dam is owned and operated by the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). The Lake Como Reservoir Dam is owned and operated by the Bitterroot Irrigation

District (1182 Lazy J Lane, Corvallis, Montana, 59828), and the safety of the dam is overseen by the Bureau of Reclamation, Dam Safety Division (Montana Area Office, 2950 4th Avenue North, Billings, Montana, 59107). For more information regarding these dams, please contact the above agencies. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety)*

Notification of Proximity to Montana Rail-Link Railroad. This subdivision is located adjacent to the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. Every train that uses this railroad track will sound a warning whistle for the Willoughby Lane grade crossing, as required by federal law. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety)*

Notification of Drainage Easement. Within this subdivision there is a drainage easement along the northern boundary of Lots 13 and 14. No structure or obstruction may be placed within this easement that is not required for storm water management. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat)*

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries.
- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. If used, bird feeders must: a) be suspended a minimum of 15 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-

- 124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
 - h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
 - i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
 - j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
 - k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
 - a. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Irrigation Easement Along Western Boundary of Subdivision. Within this subdivision there is a 25-foot wide irrigation easement along the western property boundary, as shown on the plat, to provide for the maintenance of the irrigation ditch, to discourage any interference with the ditch, and to provide for public health and safety. The Willoughby Estates Homeowners' Association is responsible for maintaining the fencing along the irrigation easement. No new structure may be constructed in this area. No trees, shrubs, or hedges may be planted within this area. Agricultural uses may occur within this area. No new utilities may be constructed in this area. Roads, trails, and utility crossings through these areas are not permitted unless required for irrigation maintenance. The proper use of chemicals and other methods of control for noxious weeds is allowed. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture, Agricultural Water User Facilities, and Public Health and Safety*)

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-8(b)(v), RCSR, Effects on Public Health & Safety)

Control of Noxious Weeds. A noxious weed evaluation form has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Natural Environment)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Stevensville Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Stevensville Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings

be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. *(Effects on the Natural Environment)*

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Section 3-2-8(b)(v), RCSR, Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued address for all lots. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

5. Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot. Alternatively, the subdividers may provide evidence that a \$500 per lot contribution has been submitted to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Stevensville Rural Fire District, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
7. The final plat shall show a 10-foot wide trail easement along the inside length of the internal subdivision road. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
8. The irrigation and drainage easements shall be shown on the final plat, as shown on the preliminary plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*
9. The applicants shall provide evidence that a Collection Box Unit (CBU) has been installed atop a concrete slab, in accordance with the Stevensville post office's standards, and that its installation has been approved by the Stevensville post office prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
10. The road maintenance agreement for the internal subdivision roads shall state that other parcels that may have beneficial use of the internal subdivision roads shall be allowed to join as members of the agreement without the consent of the current members. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
11. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
12. Stop signs and road name signs shall be installed at both intersections of the internal subdivision road with Willoughby Lane prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*

13. Prior to final plat approval, the applicant shall construct an off-road bus shelter near the western intersection of Willoughby Lane and the internal subdivision road. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
14. Prior to final plat approval, the applicant shall construct a school bus turnout lane on the Willoughby Lane frontage of the property. Alternatively, the applicant shall submit documentation from the Stevensville School District that states they do not require a turnout on the property. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
15. A 60-foot wide public road and utility easement shall be shown on the final plat from the internal subdivision road to the northern property boundary, along the common boundary of Lots (to be determined by BCC). The easement shall be labeled as a "public road and utility easement" on the final plat. The following statement shall be shown on the final plat: "Extending Delaford Loop to access the property to the north shall be the responsibility of the developers of the property to the north". (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Natural Environment*)
16. The applicant shall provide for an additional 36 feet of public road and utility easement along the Willoughby Lane frontage of the subdivision on the final plat, as measured from the south property boundary. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)
17. The final plat shall show a 25-foot wide irrigation easement along the length of the western boundary of the subdivision, as measured from the western property boundary. Fencing that meets the requirements in Section 5-6-2 of the Ravalli County Subdivision Regulations shall be installed along the length of the easement. Alternatively, the applicant shall provide evidence that the existing fence along the western property boundary meets the provisions of Section 5-6-2. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture, Agricultural Water User Facilities, and Public Health & Safety*)
18. A Homeowners' Association (HOA) shall be formed prior to final plat approval. HOA documents meeting the provisions in Section 3-1-5(a)(xxxix) shall be submitted with the final plat. The HOA documents shall include mechanisms for maintaining the ditch fencing, maintaining the irrigation infrastructure within the subdivision so that downstream irrigation users are not adversely affected, providing for weed control, and providing for education to new residents on living in a rural agricultural area. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture, Agricultural Water User Facilities, and Public Health & Safety*)
19. The final plat shall state that a contribution of \$500 per lot will be paid to the Open Lands Bond Program upon first conveyance, including lease or rent, of each lot. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture*)
20. The final plat shall show a no-ingress/egress zone along the Willoughby Lane frontage of the subdivision, excepting the approved approaches to Delaford Loop

from Willoughby Lane, as approved by the Ravalli County Road and Bridge Department. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*

21. The final plat shall state that a contribution of \$500 per lot will be paid to the Stevensville School District upon first conveyance, including lease or rent, of each lot. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*
22. The final plat shall state that a contribution of \$500 per lot will be paid to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) upon first conveyance, including lease or rent, of each lot. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal
 - e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of public dedication
 - h. Certificate of park cash-in-lieu payment
 - i. Other certifications as appropriate
 - j. North arrow
 - k. Graphic scale
 - l. Legal description
 - m. Property boundaries (bearings, lengths, curve data)
 - n. Pertinent section corners and subdivision corners
 - o. Names of adjoining subdivisions/certificates of survey
 - p. Monuments found
 - q. Witness monuments

- r. Acreage of subject parcel
 - s. Curve data (radius, arc length, notation of non-tangent curves)
 - t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - u. Lots and blocks designated by number (dimensions/acreage)
 - v. Easements/rights of ways (location, width, purpose, ownership)
 - w. Dedication for public use
 - x. No-build/alteration zones
 - y. No-ingress/egress zones
 - z. Water resources (rivers, ponds, etc.)
 - aa. Floodplains
 - bb. Irrigation canals including diversion point(s), etc.
 - cc. High-pressure gas lines
 - dd. Existing and new roads (names, ownership, etc.)
 - ee. Existing and proposed utility, irrigation, and drainage easements, as shown on the preliminary plat, shall be shown on the final plat.
 - ff. No ingress/egress zone along Willoughby Road, excepting the approved approach.
 - gg. A 25-foot wide irrigation easement shall be shown along the western property boundary, as measured from the western property line.
 - hh. The internal subdivision road shall be labeled as "public road and utility easements" on the final plat.
 - ii. The applicant shall provide for an additional 36 feet of public road and utility easement along the Willoughby Lane frontage of the subdivision on the final plat, as measured from the south property boundary.
 - jj. A 60-foot wide public road and utility easement shall be shown extending from the internal road to the northern property boundary, along the common boundary of Lots (to be determined by BCC).
 - kk. A 10-foot wide trail easement shall be shown along the inside length of the internal subdivision road.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.

10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurers Office for the payment of cash-in-lieu of parkland dedication.
13. Road and Driveway approach and encroachment permits from RCRBD and/or MDOT as appropriate.
14. Evidence of Ravalli County approved road name petitions for each new road.
15. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineering plans.
16. Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal.
17. Road certification(s).
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. A Road Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.
20. Signed and notarized Master Irrigation Plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the Stevensville School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal.
25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations.
26. The applicant shall pay the pro rata share of the cost to improve the portion of Willoughby Lane leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)
27. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate

and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).

- a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, school bus shelter at western property entrance, construction of the internal subdivision road, a water supply that meets the requirements of the Stevensville Fire District (if cash is not contributed in lieu of), possible installation of new safety fencing along the Webfoot Ditch, and installation of bus turnout, if required by the Stevensville School District.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along Willoughby Road. (Willoughby Estates Subdivision Application)
2. The internal subdivision road provides for a 60-foot wide access and utility easement. (Willoughby Estates Subdivision Application)
3. The application states that no records could be found that indicate the easement width of Willoughby Lane. To ensure that sufficient easement width exists in front of the subdivision, the applicant is proposing to provide 36 feet of additional easement from the south property boundary along the length of the subdivision. (Willoughby Estates Subdivision File)
4. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subdivision is accessed by Willoughby Lane. (Willoughby Estates Subdivision Application)

2. Willoughby Lane is a County-maintained road, which provides legal and physical access. (RCSR – Exhibit A)
3. The applicant is required to pay the pro rata share of the cost to improve Willoughby Lane to meet County standards. The preliminary pro rata estimate included in the application projects that the applicant will be required to contribute approximately \$9,324.65 in pro rata funds. (RCSR and Willoughby Estates Subdivision Application)
4. *To ensure legal and physical access to the subdivision via Willoughby Lane, the applicant is required to pay the pro rata share of the cost to improve the portions of Willoughby Lane leading to the subdivision prior to final plat approval. (Final Plat Requirement 26)*

Conclusion of Law

With the pro rata requirement of final plat approval, legal and physical access will be provided via Willoughby Lane.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicant is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirement 27):

- a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, school bus shelter at western property entrance, construction of the internal subdivision roads, a water supply that meets the requirements of the Stevensville Fire District (if cash is not contributed in lieu of), possible installation of new safety fence along the Webfoot Ditch, and installation of bus turnout, if required by the Stevensville School District.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that the improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:

- (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. The average lot size for this proposal is approximately 2.09 acres. (Willoughby Estates Subdivision File)
 3. The land to be subdivided is subject to a contract with the Union Ditch Association, which is a public entity formed to provide the use of water rights for subdivided and unsubdivided property. (Willoughby Estates Subdivision File)
 4. The subdivider has received approval from the Union Ditch Association for the split of the water rights. According to the Union Ditch Association, the subdivision is allocated 1 to 1.5 inches of water per lot. (Willoughby Estates Subdivision File)
 5. *Condition 1 notifies individual lot owners of the right to take water from the irrigation easement within the property.*

Conclusion of Law

With the requirements of final plat approval and the mitigating conditions of approval, this prerequisite has been met.

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

- (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The applicant is proposing 20-foot wide irrigation easements centered on a proposed ditch, which will extend from the northeastern property boundary and provide irrigation water to all lots. (Willoughby Estates Subdivision File)
 3. There does not appear to be existing easements for the ditches that border the western and eastern property boundaries. (Willoughby Estates Subdivision Application)
 4. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
 5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and conditions shall be met prior to final plat approval:*
 - *The proposed 20-foot wide irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
 - *The applicant shall provide for a 25-foot wide irrigation easement along the western boundary of the subdivision from the southern property boundary to the northern property boundary. (Condition 17)*
 - *The covenants shall include a provision indicating the allowed uses within the 25-foot irrigation easement. (Condition 2)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The application states that 1.89 acres are required to meet the parkland dedication requirement. (Willoughby Estates Subdivision File)
2. The applicant is proposing to donate cash-in-lieu of dedicating parkland. (Willoughby Estates Subdivision File)
3. In a letter dated September 22, 2006, the Ravalli County Park Board stated their concurrence with the subdividers cash-in-lieu of parkland proposal. (Exhibit A-3)
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land

donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.” (See also Section 6-1-5(e), RCSR)

5. *The cash-in-lieu payment shall be made prior to final plat approval. (Final Plat Requirement 12)*

Conclusion of Law

The applicant has proposed parkland dedication that meets State Law and is suitable to the Park Board

G. Overall Findings and Conclusions on Prerequisite Requirements

There is adequate evidence to demonstrate compliance with each prerequisite to approval.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The subdivision design as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Willoughby Estates Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR. (Willoughby Estates Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Willoughby Estates Subdivision File)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants or deed restrictions on the property.
(Willoughby Estates Subdivision File)

Conclusion of Law

Since there are no covenants or deed restrictions, this does not apply.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on approximately 38 acres will result in 18 lots that range in size from 2.00 acres to 2.35 acres. The property is located roughly 4.5 miles south of Stevensville off Willoughby Lane. (Willoughby Estates Subdivision File)
2. The property is currently irrigated and produces a crop of alfalfa. (Willoughby Estates Subdivision File)
3. Parcels to the north, east, and west of the subject property are classified for tax purposes as agricultural rural and appear to be used for grazing and crop

production. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program and Site Visit)

4. According to the Web Soil Survey for Ravalli County, approximately 95% of the soils located on the property are categorized as "Prime farmland if irrigated". (Willoughby Estates Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
5. The property has water rights from the Union Ditch Association. (Willoughby Estates Subdivision Application)
6. There are ditches bordering both the eastern and western boundaries of the subdivision. There do not appear to be existing easements for either ditch. (Willoughby Estates Subdivision Application)
7. The Union Ditch, located along the length of the eastern property boundary, is proposed to be abandoned. (March 5, 2008 Planning Board, testimony of John Joost)
8. The applicants are proposing a 25-foot wide irrigation easement along the western boundary of the property. (March 5, 2008 Planning Board Meeting Minutes)
9. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansey and Canadian Thistle were scattered on the property. (Willoughby Estates Subdivision Application)
10. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
11. The Planning Board recommended that the final plat state that \$500 per lot shall be submitted to Open Lands Bond Program upon first conveyance, including lease or rent, of each lot. (March 5, 2008 Planning Board Meeting Minutes)
12. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
 - *The final plat shall show a 25-foot wide irrigation easement along the length of the western boundary of the subdivision, as measured from the western*

property boundary. Fencing that meets the requirements in Section 5-6-2 of the Ravalli County Subdivision Regulations shall be installed along the length of the easement. Alternatively, the applicant shall provide evidence that the existing fence along the western property boundary meets the provisions of Section 5-6-2. (Condition 17 and Final Plat Requirement 2)

- *A provision in the covenants shall place restrictions on development within the 50-foot wide irrigation easements. Anything related to irrigation is allowed. (Condition 2)*
- *A Homeowners' Association (HOA) shall be formed prior to final plat approval. HOA documents meeting the provisions in Section 3-1-5(a)(xxxix) shall be submitted with the final plat. The HOA documents shall include mechanisms for maintaining the ditch fencing, maintaining the irrigation infrastructure within the subdivision so that downstream irrigation users are not adversely affected, providing for weed control, and providing for education to new residents on living in a rural agricultural area. (Condition 18)*
- *To mitigate the impacts of the loss of prime agricultural soils, the final plat shall show that a contribution of \$500 per lot will be paid to the Open Lands Bond Program upon first conveyance, including lease or rent, of each lot. (Condition 19)*

Conclusions of Law:

1. The impacts of this proposal to adjacent agricultural operations, including the potential distribution of noxious weeds and human/pet interference with agriculture, can be mitigated with the conditions noted above.
2. The BCC shall determine whether the mitigation as recommended by the Planning Board will mitigate the loss of prime farmland soils.
3. With the mitigating conditions of approval, requirements of final plat approval, and mitigation for the loss of prime agricultural soils, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The property has water rights from the Union Ditch Association. (Willoughby Estates Subdivision Application)
2. The applicant is proposing to divide the water rights so that each lot has 1 to 1.5 inches of water per acre. The Union Ditch Association has approved of the irrigation plan. (Willoughby Estates Subdivision Application)
3. The property is bound on the west by a ditch maintained by the Webfoot Irrigation District. According to the application, the property does not have rights from the Webfoot ditch. There does not appear to be an existing irrigation easement along the ditch. (Willoughby Estates Subdivision File)
4. The property is bound on the east by a ditch maintained by the Union Ditch Association. The applicants are proposing to abandon this ditch. (Willoughby Estates Subdivision File and March 5 Planning Board Meeting Minutes)

5. The diversion point from the Union Ditch is located in the extreme northeast corner of the property. From this point, a proposed ditch located within a 20-foot wide easement will traverse the common boundary of proposed Lots 7 and 8, where it intersects the road easement. Irrigation infrastructure will be located within the road easement, and is also proposed to be located within another 20-foot wide easement along the common boundary of Lots 15 through 18. (Willoughby Estates Subdivision File)
6. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
 - *The notifications document filed with the final plat shall include a notification of the irrigation ditches and easements. (Condition 1)*
 - *The notifications document filed with the final plat shall include a notification that taking water from the Webfoot ditch is prohibited. (Condition 1)*
 - *The 20-foot wide irrigation easements and drainage easement shall be shown on the final plat, as proposed on the preliminary plat. (Condition 10 and Final Plat Requirement 2)*
 - *The final plat shall show a 25-foot wide irrigation easement along the length of the western boundary of the subdivision, as measured from the western property boundary. Fencing that meets the requirements in Section 5-6-2 of the Ravalli County Subdivision Regulations shall be installed along the length of the easement. Alternatively, the applicant shall provide evidence that the existing fence along the western property boundary meets the provisions of Section 5-6-2. (Condition 17 and Final Plat Requirement 2)*
 - *A provision in the covenants shall place restrictions on development within the 25-foot wide irrigation easement. Anything related to irrigation is allowed. (Condition 2)*
 - *A Homeowners' Association (HOA) shall be formed prior to final plat approval. HOA documents meeting the provisions in Section 3-1-5(a)(xxxix) shall be submitted with the final plat. The HOA documents shall include mechanisms for maintaining the ditch fencing, maintaining the irrigation infrastructure within the subdivision so that downstream irrigation users are not adversely affected, providing for weed control, and providing for education to new residents on living in a rural agricultural area. (Condition 18)*

Conclusion of Law

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Stevensville Rural Fire District. (Willoughby Estates Subdivision File)

2. The All Valley Fire Council, which includes the Stevensville Rural Fire District, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire District) that address access, posting of addresses, and water supply requirements. (Exhibit A-8)
3. The Stevensville Rural Fire District was notified on October 2, 2007 and January 25, 2008. (Willoughby Estates Subdivision File)
4. In a letter dated November 1, 2007, the Stevensville Rural Fire District recommended that the subdivision install a water supply in accordance with the Fire Protection Standards, or provide a \$500 per lot contribution in lieu of water supply. (Exhibit A-1)
5. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. For more information, contact the Montana Department of Labor and Industry, at PO Box 1728, Helena, MT 59624-1728 or call 406-444-2840. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
 - *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Stevensville Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information". (Condition 6)*

School District

6. The proposed subdivision is located within the Stevensville School District. (Willoughby Estates Subdivision File)
7. It is estimated that nine school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household. (Census 2000)
8. The applicant is proposing to contribute \$200 per lot to the School District. (Willoughby Estates Subdivision File)

9. Notification letters were sent to the Stevensville School District requesting comments on October 2, 2007 and January 25, 2008. (Willoughby Estates Subdivision File)
10. In a letter received October 29, 2007, Kent Kultgen, Stevensville Schools Superintendent, stated that any students who move in to the boundaries of the Stevensville School District would be admitted. Additionally, he stated the following:
 - (a) School buses will not travel on roads not maintained by the County.
 - (b) Each subdivision must provide a safe pick-up/drop off zone for children.
 - (c) Although Stevensville has not completed an impact fee study, based off other area schools completed impact fee studies, the Stevensville School District is requesting \$7,500 per single family dwelling. (Exhibit A-9)
11. The Stevensville School District has not completed an impact fee study at this time and Ravalli County has not adopted impact fees to date. The County cannot request a contribution for capital expenses until an impact fee has been adopted. (MCA 7-6-1603)
12. On March 5, 2008, the Ravalli County Planning Board recommended that the developer provide a \$500 per lot contribution to the Stevensville School District on the first conveyance of each lot. (March 5, 2008 Planning Board meeting)
13. In a letter received October 15, 2007, Ernie Jean, County Schools Superintendent, relays that there is a great concern for the safety of children who attend Ravalli County schools and live within varying conditions of subdivisions in the County. As a result, he requests that developers of new subdivisions construct a bus shelter at a bus stop, and possibly a turnout or turn-around, where appropriate. (Exhibit A-7)
14. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the cost per pupil, excluding capital, would be \$8,020 for the Stevensville School District (averaging Stevensville HS and Stevensville Elem). (Exhibit A-6)
15. *Staff recommends the following to mitigate impacts on the School District:*
 - *The final plat shall show that a contribution of \$500 per lot will be paid to the Stevensville School District upon first conveyance, including lease or rent, of each lot. (Condition 21 and Final Plat Requirement 24)*
 - *Prior to final plat approval, the applicant shall construct an off-road bus shelter near the western intersection of Willoughby Lane and the internal subdivision road. (Condition 13)*
 - *Prior to final plat approval, the applicant shall construct a school bus turnout lane on the Willoughby Lane frontage of the property. Alternatively, the applicant shall submit documentation from the Stevensville School District that states they do not require a turnout on the property. (Condition 14)*

Public Safety

16. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Willoughby Estates Subdivision File)

17. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on October 2, 2007 and January 25, 2008, but no comments have been received from the Sheriff's Office. (Willoughby Estates Subdivision File)
18. This proposed subdivision is located approximately 17 miles from the Sheriff dispatch in Hamilton. (Willoughby Estates Subdivision File)
19. The average number of people per household in Ravalli County is 2.5. (Census 2000)
20. This proposal will add approximately 45 people to Ravalli County. (Census 2000)
21. The applicant is not proposing a contribution to the Sheriff's Office, E-911, or the Department of Emergency Services for the potential 45 additional people. (Willoughby Estates Subdivision File)
22. *To mitigate impacts on Ravalli County Public Safety Services, the final plat shall show that a contribution of \$500 per lot will be paid to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) upon first conveyance, including lease or rent, of each lot. (Condition 22)*

Roads

23. There are 18 proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 144 vehicular trips per day, assuming eight trips per day per lot. (Willoughby Estates Subdivision File)
24. Willoughby Lane, a County maintained road, provides access to the site. (Willoughby Estates Subdivision File and Ravalli County GIS Data)
25. The applicant is required to pay pro rata towards improving Willoughby Lane. (Section 5-4-5, RCSR)
26. The preliminary pro rata estimate included in the application projects that the applicant will be required to contribute approximately \$9,324.65 in pro rata funds. (RCSR and Willoughby Estates Subdivision Application)
27. There is a proposed Road Maintenance Agreement for the internal road, Delaford Loop. (Willoughby Estates Subdivision File)
28. There is a possibility that the property to the north will be developed in the future. Section 5-4-4(d) of the Ravalli County Subdivision Regulations recommends that roads are planned for connectivity to future development. Future property owners of the property to the north will be able to utilize the easement if they develop the road within the easement to meet County Standards, and join the Road Maintenance Agreement for the internal road of Willoughby Estates. (Ravalli County GIS Data and RCSR Section 5-4-4(d))
29. The applicant is proposing stop signs at both intersections of Delaford Loop with Willoughby Lane, but does not appear to be proposing road name signs. (Willoughby Estates Subdivision File)
30. RCSR Section 5-4-11 requires at least one road name sign to be installed at all road intersections. (RCSR Section 5-4-11)
31. The road plans have received preliminary approval from the Ravalli County Road and Bridge Department. (Exhibit A-13)
32. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*

- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
- *Prior to final plat approval, evidence of a Ravalli County approved road name petition for the new road shall be provided. (Final Plat Requirement 14)*
- *Final Road Plans and Grading and Storm Water Drainage Plans for the internal road shall be submitted with the final plat submittal and final approval from the Road Department. (Final Plat Requirement 16)*
- *A Road Maintenance Agreement shall be signed, notarized, and submitted for the internal road. (Final Plat Requirement 19)*
- *A notification of the Road Maintenance Agreement for the internal road shall be included in the notifications document filed with the final plat. (Condition 1)*
- *The Road Maintenance Agreement shall state that other parcels that may have beneficial use of the roads shall be allowed to join as members of the agreement without the consent of the current members.(Condition 10)*
- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
- *Stop signs and road name signs shall be installed at both intersections of Delaford Loop with Willoughby Lane prior to final plat approval. (Condition 12)*
- *The easement for the internal subdivision road shall be labeled as public road and utility easements on the final plat. (Condition 11)*
- *The final plat shall show a no-ingress/egress zone along the Willoughby Lane frontage of the subdivision, excepting the approved approaches to Delaford Loop from Willoughby Lane, as approved by the Ravalli County Road and Bridge Department. (Condition 22 and Final Plat Requirement 2)*
- *A notification of this limitation of access will be included in the notifications document. (Condition 1)*
- *The applicant shall submit final approved approach permits from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)*
- *To mitigate impacts on local services, the applicant shall provide for a public road and utility easement connecting the proposed internal road to the property to the north. (Condition 15)*
- *Prior to final plat approval, the applicant shall construct an off-road bus shelter near the western intersection of Willoughby Lane and the internal subdivision road. (Condition 13)*
- *Prior to final plat approval, the applicant shall construct a school bus turnout lane on the Willoughby Lane frontage of the property. Alternatively, the applicant shall submit documentation from the Stevensville School*

District that states they do not require a turnout on the property. (Condition 14)

- *In order to ensure the proper drainage of this subdivision and to mitigate impacts on local services, a notification of the drainage easement shall be included in the notifications document to be filed with the final plat. (Condition 1)*
- *The applicant shall provide for an additional 36 feet of public road and utility easement along the Willoughby Lane frontage of the subdivision on the final plat, as measured from the south property boundary. (Condition 16)*

Pedestrian Facilities

33. In a letter received October 11, 2006, the Ravalli County Park Board suggested that the developer provide a trail connection to Willoughby Lane along the internal loop road. (Exhibit A-3)
34. In conversation on February 6, 2008, a Park Board representative requested that the applicant provide a 10-foot wide public trail easement along the road for a future trail. (Exhibit A-14)
35. There is currently no pedestrian trail along the frontage of the subdivision. (Site Visit)
36. *In anticipation of any future trail system in the area, the final plat shall show a 10-foot wide trail easement along the inside length of the internal subdivision road. (Condition 9)*

Ambulance Services

37. Ambulance services will be provided by either Marcus Daly Memorial Hospital EMS Department or Missoula Emergency Services. Marcus Daly and Missoula Emergency Services were contacted, but no comments have been received to date. (Willoughby Estates Subdivision File)
38. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

39. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Willoughby Estates Subdivision File)

Solid Waste Services

40. Bitterroot Disposal provides service to this site. (Willoughby Estates Subdivision File)
41. Notification letters were sent to Bitterroot Disposal requesting comments on October 2, 2007 and January 25, 2008, but no comments have been received. (Willoughby Estates Subdivision File)

Mail Delivery Services

42. In a letter dated September 7, 2006, the Stevensville Post Office told the applicant to install a Collective Box Unit (CBU) on a concrete slab for mail delivery. (Exhibit A-2)
43. *To mitigate impacts on local services, the applicants shall install the concrete slab and CBU, and provide evidence of its approval by the Stevensville post office prior to final plat approval. (Condition 12)*

Utilities

44. The proposed subdivision will be served by Northwestern Energy and Qwest Communications. Utility companies have been notified of the proposed subdivision. (Willoughby Estates Subdivision File)
45. Notification letters were sent to the utility companies requesting comments on October 2, 2007 and January 25, 2008. (Willoughby Estates Subdivision File)
46. In a letter dated September 11, 2007, Qwest communications stated that they will be able to provide telecommunications service to this development. (Willoughby Estates Subdivision File)
47. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Northwestern Energy, Ravalli Electric Cooperative, and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In a letter dated November 9, 2007, the Montana Department of Environmental Quality (DEQ) identified that Ravalli County is failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. (Exhibit A-15)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground/Surface Water

4. Irrigation ditches border the property on the west and on the east. Other than an irrigation diversion to the Union Ditch to the east, there will be no modification to either of the ditches. (Willoughby Estates Subdivision File)
5. The applicants are proposing individual wells and wastewater treatment facilities for all Lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Willoughby Estates Subdivision File)

6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Willoughby Estates Subdivision File, MCA 76-3-622)
7. *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Light Pollution

8. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association, www.darksky.org)
9. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

10. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansy and Canadian Thistle were scattered on the property. (Willoughby Estates Subdivision Application)
11. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Willoughby Estates Subdivision Application).
12. The applicant has identified that wetland vegetation may be supported along the length of the western and eastern irrigation ditches. (Willoughby Estates Subdivision File)
13. The applicant was required to submit a sensitive species report for several species of wildlife (see Wildlife and Wildlife habitat). In the report, John Beaver, Ecologist, identifies that the wetland vegetation along the ditches may provide habitat for the Bobolink, as well as the weed patch along the railroad. (Willoughby Estates Subdivision File)
14. The applicant is proposing a 15-foot no-build/alteration zone along the length of the western property boundary to protect Bobolink habitat, and any potential wetland vegetation. In addition, the applicant is proposing a five-foot no-build/alteration zone along the length of the eastern property boundary to protect potential bobolink habitat. (Willoughby Estates Subdivision File)
15. The applicant has proposed a set of covenants to be file with this subdivision. The covenants include a building setback of 25-feet from property boundaries. While residences, garages, and structures are prohibited within this area, it does not appear to protect vegetation within the same area. (Willoughby Estates Subdivision File)
16. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)

17. There is a conflict between the need for noxious weed control and the maintenance of irrigation facilities, and the preservation of wildlife habitat as may be found along the western and eastern property boundaries. Staff determined that the need for irrigation facilities maintenance and the control of noxious weeds outweighs the need to protect wildlife habitat that may, or may not, exist on the subject property. Therefore, staff is recommending that the no-build/alteration zones as proposed by the developer not be a part of the final plat submittal. (Staff Determination)
18. *To mitigate impacts on the natural environment, the following conditions and requirements shall be met:*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
 - *The following statement shall be shown on the final plat: "Development of roads within the easements between this property and the property to the north shall be the responsibility of the future developers of the property to the north." (Condition 15)*
 - *The final plat shall show a 25-foot wide irrigation easement along the length of the western boundary of the subdivision, as measured from the western property boundary. Fencing that meets the requirements in Section 5-6-2 of the Ravalli County Subdivision Regulations shall be installed along the length of the easement. Alternatively, the applicant shall provide evidence that the existing fence along the western property boundary meets the provisions of Section 5-6-2. (Condition 17 and Final Plat Requirement 2)*
 - *A HOA shall be formed in accordance with Section 3-1-5(a)(xxxix) of the RCSR to properly administer the provisions of the noxious weed control plan, maintain the ditch fencing, and maintain the irrigation infrastructure. (Condition 18)*

Archaeological Resources

19. There are no known sites of historical significance on the property. (Willoughby Estates Subdivision Application)
20. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

13. The property is not located within big-game winter range. (FWP)
14. FWP recommended living with wildlife covenants for the property. (FWP)

15. According to the Montana Natural Heritage Program (MNHP) in October of 2006, the Bobolink, the Townsend's Big-eared Bat, and the Barn Owl were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. (Willoughby Estates Subdivision Application)
16. The subdivider submitted a sensitive species report for the Bobolink, the Townsend's Big-eared Bat, and the Barn Owl, prepared by an ecological consultant named John Beaver. Mr. Beaver visited the site in August of 2006 and found the habitat to be non-existent for the Townsend's Big-eared Bat and the Barn Owl. (Willoughby Estates Subdivision Application)
17. Mr. Beaver found that the wetland fringe on the western property boundary and the weedy vegetation along the eastern property boundary "could provide breeding and nesting habitats" for the Bobolink. (Willoughby Estates Subdivision File)
18. The report did not indicate that the Bobolink was found on the subject property, nor did it indicate that there was any evidence that the Bobolink may have used the subject property as habitat. (Willoughby Estates Subdivision File)
19. There is a conflict between the need for noxious weed control and the maintenance of irrigation facilities, and the preservation of wildlife habitat as may be found along the western and eastern property boundaries. Staff determined that the need for irrigation facilities maintenance and the control of noxious weeds outweighs the need to protect wildlife habitat that may, or may not, exist on the subject property. Therefore, staff is recommending that the no-build/alteration zones as proposed by the developer not be a part of the final plat submittal. (Staff Determination)
20. To mitigate impacts on agriculture, agricultural water user facilities, natural environment, wildlife and wildlife habitat, and public health and safety, staff is recommending that the applicants provide a 25-foot wide easement along the western property boundary. The applicants would be required to fence the area, which would also protect the area from any alterations not associated with the maintenance of irrigation facilities. (Staff Determination)
21. *To mitigate impacts on wildlife, the following conditions shall be met:*
 - *The covenants shall include a living with wildlife section. (Condition 2)*
 - *The final plat shall show a 25-foot wide irrigation easement along the length of the western boundary of the subdivision, as measured from the western property boundary. Fencing that meets the requirements in Section 5-6-2 of the Ravalli County Subdivision Regulations shall be installed along the length of the easement. Alternatively, the applicant shall provide evidence that the existing fence along the western property boundary meets the provisions of Section 5-6-2. (Condition 17 and Final Plat Requirement 2)*
 - *A HOA shall be formed in accordance with Section 3-1-5(a)(xxxix) of the RCSR to properly administer the provisions of the noxious weed control plan, maintain the ditch fencing, and maintain the irrigation infrastructure. (Condition 18)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Willoughby Lane. (Willoughby Estates Subdivision Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Stevensville Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, Missoula Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Willoughby Estates Subdivision Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicants are proposing individual wells and wastewater treatment facilities for all Lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Willoughby Estates Subdivision File)
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Willoughby Estates Subdivision File, MCA 76-3-622)
7. *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

8. There are currently large irrigation ditches along the western and eastern boundaries of the subdivision. Though they are not considered to be "supply ditches" (as defined by 5-6-2(a) of the RCSR), they appear to carry a substantial amount of water during irrigation season. (Willoughby Estates Subdivision Application and Site Visit)
9. The Union Ditch, located along the eastern property line, is proposed to be obliterated just past the point where the irrigation diversion for this subdivision is proposed. (March 5, 2008 Planning Board, testimony of John Joost)
10. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
11. A portion of the southeast corner of the property may be located within the Painted Rocks and Lake Como Dam inundation areas. (Ravalli County GIS Data)
12. The Montana Rail-Link railroad is located adjacent to this development, along the eastern property boundary. (Ravalli County GIS Data)
13. *To mitigate the impacts of this subdivision on public health and safety, the following conditions and requirements shall be met:*
 - *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*

- *The notifications document shall include a statement regarding the proximity of the Painted Rocks and Lake Como Dam inundation areas. (Condition 1)*
- *A notification of the proximity of the railroad shall be included in the notifications document. (Condition 1)*
- *The applicants shall provide for a 25-foot wide easement along the western boundary of the subdivision. (Condition 17)*
- *The applicants shall be required to fence the irrigation easements. (Condition 17)*
- *A Homeowners' Association shall be formed to maintain the fencing. (Condition 18)*
- *A provision in the covenants shall restrict any activities not related to irrigation within the 25-foot wide irrigation easement. (Condition 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Consultant Nathan Lucke presented photographs of the property including the Web Foot Ditch. He noted the Planning Board discussed this ditch and the easement. The current easement varies from the ditch as it traverses down the property line. They would like a 25' easement which will also be the no build zone and should cover all of the issues in order to meet the conditions. He stated he walked this easement this morning, noting they want to protect the irrigation delivery. Within the easement there is a fence, and the fence is in the right spot, approximately 25' from the property line. Therefore, this fence should be left in place and utilized as the marker. Photographs included the railway track and ditch lateral that comes under the railway track. He noted this ditch lateral will not be abandoned at the north of the property. Irrigation diversion photos were included as well as the various corners of the property where the ditches will be abandoned. Nathan stated the ecologist wanted the 5' of separation; which will have the 5' of no build alteration zone.

Nathan stated he was asked on Monday to prepare the presentation, and has read the staff report and information presented and he continues to be impressed with the way staff presents the report. They feel this is an excellent report which presents the findings and mitigation. He feels the report takes care of everything. Planning Board was 10-2 in favor of this subdivision. The only issue not addressed at the Planning Board meeting is that staff would like to see an easement heading to the north of the property for future connection if it occurs. They would like this easement between Lots 6 and 7. There is easy site distances if a road were to ever be connected. There is a trail easement proposed on the interior side of the loop. In regard to the irrigation, it comes in along the eastern property with flood irrigation. The developer would like to pipe this now, and the system will come down through the lots. The offered mitigation is as follows: \$500 per lot to the fire district, \$500 per lot to school district and \$500 per lot to open lands fund. This is close to Eastside Hwy and Bell Crossing.

Commissioner Driscoll asked about an old railroad value. Nathan stated there is some historical value and importance in the area but nothing on the land.

Public comment was then opened.

Developer Jason Joost stated he believes in this project and numerous farmers in the area are excited about marketing their commodities to these land owners. The Joost family will continue farming in the area. His family has been here for 49 years.

Matt Bowman lives in area. He was late this morning and asked what the issue was with the subdivision. He asked about septic and environmental issues and if any horses are allowed. The owner stated no horses. Matt asked what agricultural products were produced. Jason stated potatoes, onions etc. at a road side market. Matt stated he is against this development.

John Joost has lived here 49 years and has raised his family as farmers. He has gotten older and can not handle all he has been doing. He has closed the dairy and they now rent some ground. Sometimes they have to do things in their lives to get by and 20 years ago he would have never considered any subdivision on his land. He stated this is a good opportunity for his neighbors and Mrs. Strange to have a retirement. He does not have an IRA, so selling the land is his retirement. In regard to the Union Ditch, he was the Chairman of the Supply Ditch for 25-years. This ditch purchases water from Painted Rocks Dam. He is on the Board of Directors on the Union Ditch. This pipe will actually help the ditch as it won't leak out and the water will be readily available. Currently they have problems getting the water to the end of the ditch, now the water can be delivered. This subdivision is a good opportunity for the area to get ahead.

Commissioner Grandstaff asked John the location of the Union Ditch. The Union Ditch is ¼ mile east of where the water will come in. The ditch on site is the Web Foot Ditch. This easement of 25' will allow maintenance and water travel. The worst thing about this is when people split the land and they fence the land, they do not leave a gate so they have a hard time getting in to maintain the ditch. A good example is Pine Hollow where the Union Ditch flows with all the fencing. John stated the pipe will come in around Lot 8 then around the cul-de-sac, then straight down the property line. Another pipe will go around the entire cul-de-sac allowing all of the lots to access the water.

Katie White is a neighbor. Katie asked how the cash in lieu of parkland works. Commissioner Driscoll explained cash in lieu of park land. Commissioner Grandstaff also discussed the percentages of parkland, values of land and where the money goes if no park is established. This is a small development so the Park Board would like cash in order to help purchase regional parks. Katie also pointed out this property is prime farm land if irrigated. Since it has not been irrigated, they have still taken two cuttings of hay. She has concerns about the septic.

Ed Cummings is a neighbor to the Joosts. He too is a farmer and has done business with Joost and Strange. In regard to the prime soils, he has bought one of the cuttings of hay

which was 30 tons of hay at \$70.00 per ton. Today's prices of hay might make \$4,000 rather than \$2,000. With the cost of oil, the cost of fertilizer has risen and it would cost about \$700.00 per acre to fertilize alfalfa ground. Even if you sold it at \$140.00 a ton, you would still only get \$700 per acre. Therefore you can make no money on the crop. Ed stated they can not do anything about the value of the oil, devalue of the dollar etc. When these conditions occur, the farmers need a way to get through the tough times. For the Joost and Strange Family, this is the only way to stay active in the community, and being able to continue farming will allow them to supplement their income. He supports this subdivision as a way to allow these farmers the ability to sell some ground and continue to live here. The Joost's want to stay here and their daughter has had 6 heart surgeries.

Bill Strange, owned the property prior to the Joosts. He stated this is the only 40-acres they will sell in the next 50 years. He would like his wife and children to stay here. He and his machinery are worn out. He has just produced a will and trust and the children obtain the balance of the property with the stipulation that it remain farm land until he dies. They have a retarded daughter they have to take care of. He has had Polio all these years and has still been a farmer. He has taken good care of this land. Bill addressed the railway fence, noting nothing on the east side of this track will be sold. He thought the sugar beet area on the east side of this parcel might be the historic value. His grandfather came here in the 1800's so he has a lot of interest in keeping value to the properties they own which includes 200 acres in the river bottom.

Public comment was then closed. Board deliberations then took place.

Criterion #1 – Effects on Agriculture: Commissioner Driscoll appreciates the money towards the open lands. Commissioner Grandstaff asked about a letter of support from a neighbor in regard to the sale of the land. Mrs. Joost stated there is a neighborhood market and the residents can walk there and purchase meat, vegetables, etc. Commissioner Thompson stated this is a good example of prime agricultural land and subdivision. He stated he does not believe they can condemn a rancher to continue to farm the rest of his life. The attachment for feed fertilizer addresses the loss of monies and loss of farm land to development. Commissioner Thompson addressed how he raises cows and the transfer of development rights etc. He agrees this is a dilemma in regard to losing farm land and the subdivision will create houses with kids and dogs in the middle of the agricultural land. Complaints occur. He read the letters of support for this development which includes the letter from the White's addressing an impact to their well water. He stated the water runs north to north west on the west side of the valley, so they need to be careful of that issue. In regard to the amount of money received from farming, he notes it is not much and it is appropriate to have monies going into the open lands program. Commissioner Chilcott stated working in agricultural is one thing and living across the road is another. Ag does not usually allow much money to be made, particularly a hay crop. Thus the owner needs the ability to supplement their income. **With mitigations offered by the developer they have sufficiently mitigated the affects to agriculture.** Commissioner Driscoll stated she is sad but recognizes the reality

this land owner is facing. This is a perfect example of the transfer of development rights that zoning allows. **The Board concurred.**

Criterion #2 – Water User facilities: Commissioner Grandstaff noted John Joost has been involved in this issue for so long and thus the water delivery will continue. Commissioner Driscoll addressed the fencing issues; zoning too could address some of the problems with the irrigation easements, ability to maintain etc. Commissioner Grandstaff indicated there is an education issue in order to avoid the irrigation easement conflicts.

Bill Strange stated the Union Ditch flows 15 miles from the ‘S’ curves in Corvallis. Many people throw a pump in and they do not have any water rights. So we, the owners of the ditch do not obtain all of their water.

Commissioner Driscoll stated with background in real estate she has seen many conflicts. Commissioner Chilcott stated back in the 70’s in the Burnt Fork area, people began to utilize sprinklers (instead of flood irrigation) and people found their wells drying up. These irrigators keep the wells full, and we might see some well issues when irrigation ditches are piped, however it does give a better and more efficient delivery of water.

Board concurred sufficiently mitigated.

Criterion #3 Local Services:

- Commissioner Grandstaff asked if the \$500 to Stevensville Fire will be paid prior to final plat. Nathan stated that is correct.
- In regard to the schools, Commissioner Grandstaff stated the Stevensville impact fee does not include bricks and mortar; the school is asking \$7,500 per a single family dwelling (study not adopted yet, thus just asking). Commissioner Grandstaff addressed the lag time of house construction and collection of taxes being 12-18 months. The offer is \$500.00 per lot per first conveyance. Matt asked about process, Commissioner Driscoll explained how the negotiations and why the negotiations occur. Jerry Erhart commented they are paying taxes to the schools and they do not have kids. Vinda Milless asked about the cost per student, because most people who purchase these lots will be retirees. For those who do have children, they are generally moving from another location in the valley, therefore the effects on schools should be minimal. Commissioner Grandstaff stated this is a valid concern and has been addressed in the cost. Stevensville does not have an impact fee study; this is simply a request by the school. Other schools are in the process or have adopted an impact study. Commissioner Driscoll stated this is the lag time for being on the tax roles in gathering monies. Vinda stated as a realtor, the land purchasers are not occupying the parcel very quickly; it takes them a while to arrive.
- Offer for Public safety \$500.00 per lot upon first conveyance.
- Pedestrian walkways – Nathan stated the Park Board requested a trail easement. The developer would like to see a trail and they are going to build a home there, but they want to see what the other residents want (paving, gravel etc). So they

would like to wait a while on this. Commissioner Chilcott stated with a RSID waiver and right to protest, this could move through the process pretty easily. Commissioner Thompson asked about pro rata on the road and additional 36' of road frontage the developer is giving. Nathan stated the road's centerline is typically in the center, but this is an old road with 60' prescriptive easement. The property line is actually not far from the center line of the road. Therefore they need the 36' feet from the centerline of the road in order to obtain the required easement. This will give the road the ability to have the proper 60' wide easement etc.

- Waste water etc. – (wait until next criterion #3)

Commissioner Thompson and Commissioner Chilcott voted sufficiently mitigated. Commissioner Grandstaff voted not sufficiently mitigated due to Ernie Jean's estimation, which will make her vote consistent with other school mitigation issues. Commissioner Driscoll voted sufficiently mitigated.

Criterion #4 – Natural Environment: Commissioner Thompson asked about the depth of the wells. Nathan stated the wells are about 40' and they yield of 30-100 gallons per minute. Groundwater monitoring was dry. There are fine sandy loams in this area and it is good for the systems. There are some clay layers. Commissioner Driscoll stated she feels safer below the clay layers due to the pharmaceuticals and fertilizers that have been utilized. Andy Short of Territorial Landworks (also a Registered S) state he has worked with Missoula Co, Mineral County and Idaho. Montana has some strict rules; it is set at 4' but these drain fields are at 24" because soils is one of the best treatments. Soils bind to the affluent. Andy stated the clay strata are hit or miss in the area. Nathan read from some off the soils profiles showing the differences in the parcels. Commissioner Driscoll stated she would 'feel happier' if these went deeper in regard to quality of water. Andy stated in regard to the pharmaceutical issue, education is needed. John Joost stated the dairy wells were 50' and every month the inspector would analyze the water. In 42 years they never found anything in regard to bacteria, contamination etc. Bob White stated he adjoins this property to south. He is not against the Joosts doing what they want to do with their property; he is simply concerned about septic systems contaminating his well. Andy stated the study shows the groundwater moves away from his property. Bob stated when that field was heavily irrigated it flooded his basement. Andy stated it simply raised the water table. Bill Stranger agreed when the heavy irrigation occurred it did flood his basement. Bob asked again, if he does get nitrates in his well, who protects or pays for his damage. Andy stated he is not guaranteeing this he is simply relaying what they found in regard to the water flow. Bob stated his questions are not answered.

Commissioner Driscoll asked what would make them feel more secure. Bob asked whose responsibility is it down the road if he gets nitrates there. Jason Joost stated the water goes in the opposite direction and the piping will avoid the high round water. Matt asked if the developer can post a bond in case that ever happens. Commissioner Grandstaff stated her well was drilled in 1940's and it has been fine, but if she has nitrates who does she blame? Commissioner Driscoll addressed community wells, but in this subdivision community wells do not play in. Discussion about the closed water basin and the inability to obtain a water right for community wells. Thus, not a legitimate

option for the developer. Commissioner Chilcott stated the separation of groundwater in Montana is much higher than in the neighboring states. Katie White reiterated what her husband states, the property owner has the rights but they are right next door and with their basement flooding in the past they have a concern. She also noted with Andy's comments they are encouraged, but they hate to see this happen right across the street. Commissioner Grandstaff stated she is on Board of Health and likes what Montana does with their DEQ requirements; and while she understands their concerns she is not as worried. Commissioner Driscoll stated she sits on the State Board of Sanitarians and she understands their concerns. Katie stated if the well is contaminated or impacted, their pocket book is impacted and they end up being responsible. Commissioner Grandstaff stated yes that is correct. Commissioner Chilcott stated this does not limit their civil recourse if they can identify the practices that could cause their problem. Commissioner Grandstaff stated she has thought about what Katie and Bob are talking about. And she has asked where she puts her money, in civil court or drilling a new well. Katie stated they are depending upon the Commissioners to decide about going deeper. Commissioner Grandstaff stated the Commissioners depend upon the state.

All Commissioners agreed sufficiently mitigated

Criterion #5 – Wildlife and Wildlife Habitat: All Commissioners agreed sufficiently mitigated.

Criterion #6 Public Health and Safety:

- In regard to traffic – Commissioner Driscoll addressed the max of traffic on these roads; hopefully the new regulations will require developers to show how they impact the traffic. Commissioner Driscoll stated she is sensitive to the users of the road, particularly the agricultural users. Commissioner Chilcott noted Willoughby and Bell Crossing slows traffic significantly with the flashing yellow light. Commissioner Thompson stated he was responsible for the installation of that flashing yellow light.
- Wastewater – Commissioner Grandstaff stated if she thought this would pollute neighboring wells she would not vote for this.

The Commissioner agreed sufficiently mitigated

John Lavey then noted the Board has added the easement between lots 6 – 7; and notification about pharmaceuticals.

Commissioner Chilcott motion that the Willoughby Estates major Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report and as mitigated today. Commissioner Driscoll seconded, all in favor.